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An Act To Establish a Duty To Report Serious Injuries

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §222 is enacted to read:

§ 222. Duty to report serious injury

1. Definition. As used in this section, unless the context otherwise indicates, "serious injury" means any untreated gunshot wound, knife wound or other open wound that involves substantial blood loss.

2. Duty. A person who is 18 years of age or older and who observes that another person has received a serious injury shall immediately report that injury to and shall request first aid by the quickest means of communication available from a police department, emergency dispatch center, licensed medical facility or licensed medical provider.

A. The duty imposed by this subsection applies regardless of whether the injury was self-inflicted intentionally, recklessly, negligently or accidentally.

B. This section may not be interpreted to impose a duty to provide first aid or other medical treatment.

C. The duty imposed by this subsection is satisfied if another person has already made or agreed to make the report and request for first aid.

3. Cause of action. A person who is injured by the failure of another person to report a serious injury may bring a civil action against the person alleged to have breached the duty imposed by subsection 2.

A. A person who brings a civil action pursuant to this subsection must prove by a preponderance of the evidence the extent to which the alleged breach of the duty imposed by subsection 2 was a substantial factor in causing an aggravation of the person's injury.

B. The amount of damages awarded pursuant to this section may not be reduced as a result of any intentional act or negligence committed by the injured person, as long as the recoverable damages are limited to the aggravation of the injury proximately caused by the failure to report the injury as required by subsection 2.

C. A person against whom a claim under this subsection has been asserted has an affirmative defense that the person did not report the serious injury because that person was in the process of providing first aid to the injured person.

4. Application. The civil cause of action created by subsection 3 must be applied to a case that accrues on or after the effective date of this section.

5. Governmental entities and employees. This section does not apply to a governmental entity or government employee acting in the course and scope of that entity's or employee's duties.

SUMMARY

This bill requires a person who observes that another person has received a serious injury to immediately report that injury to and request first aid by the quickest means of communication available from a police department, emergency dispatch center, licensed medical facility or licensed medical provider.